THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No. 33997 of 1997

Dated: 23.02.2007

Between:

M/s Sri Rama Rice Mill, rep. by its managing Partner and Lease Holder P. Papi Reddy, R/o Indresham village, Patancheru mandal, Medak District.

..... PETITIONER

AND

The A.P. State Electricity Board, rep. by its Secretary, Vidyut Soudha, Somajiguda, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No. 33997 of 1997

Order:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the 2nd respondent in not permitting the petitioner-Rice Mill to examine the Inspecting Officials, who inspected its premises on 24.01.1995, as illegal and arbitrary.

2. The facts of the case, in brief, are that the petitioner's Rice Mill was provided with L.T. power supply by the respondent-Board. On 24.01.1995, the authorities of the respondent-Board inspected the petitioner-Rice Mill and found certain pilferages, and according to their provisional assessment notice, dated 29.11.1995, the said pilferage of energy was worked out to Rs.4,95,306/- and directed the petitioner-Rice Mill to deposit 50% of the said amount pending enquiry for restoration of power supply. As against the said provisional assessment notice, the petitioner-Rice Mill approached this Court and filed W.P. No. 27401 of 1995, and this Court, at the stage of admission, disposed of the said writ petition with a direction to the respondents to restore power supply on condition of petitioner-Rice Mill depositing a sum of Rs.75,000/-. Thereafter, a show cause notice, dated 12.11.1996, was issued calling upon the petitioner-Rice Mill to offer its explanation. For which, the petitioner-Rice Mill offered a detailed explanation on 22.11.1997 stating that there is no pilferage of energy, and further stated that it wants to cross-examine the officials, who inspected its premises on 24.01.1995. But, the authorities of the respondent-Board orally rejected the said plea stating that the rules do not permit. At that juncture, the petitioner

approached this Court and filed the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Board.

4. The petitioner has drawn my attention to a judgment of the apex Court in ***Transmission Corpn. Of A.P. Ltd. V. M/s. Sri Rama Krishna Rice Mill***[1], wherein the apex Court has taken a view that the consumer shall be given an opportunity to cross-examine the officials, who inspected the premises and reported that there is pilferage of energy. The apex Court further held that before the consumer is permitted to cross-examine the said officials, he must make an application requesting the enquiring authority to permit him to cross-examine, and the enquiring authority, after assessing that it is a case which requires cross-examination of the inspecting officials, shall permit the consumer to cross-examine the said officials.

5. In the light of the said ruling of the apex Court, and having regard to the fact that the application, dated 22.11.1997, seeking to permit the petitioner-Rice Mill to cross-examine the officials, who inspected its premises, is said to be pending consideration before the respondent-Board, this Court is of the view that the petitioner-Rice Mill shall be given an opportunity to cross-examine the officials, who inspected its premises on 24.01.1995.

6. Accordingly, the writ petition is disposed of with a direction to the respondents to consider the application of the petitioner-Rice Mill, dated 22.11.1997, and decide as to whether the cross-examination of the inspecting officials is required or not, and thereafter permit the petitioner-Rice Mill to cross-examine those officials, if required. No costs.

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GOPALA KRISHNA TAMADA, J.

Date: 23.02.2007
Nsr

[1] AIR 2006 Supreme Court 1445